IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No. 4735 of l996

Kantilal Nanji Shah ....petitioner

vs

CIDCO ...respondents

Mr Dhiren Shah for M/s Vimla & co for petitioner

Mr R M Sawant for respondent no.l

CORAM:A.P.SHAH & S.C.DHARMADHIKARI JJ.

5th October, 2004

P.C.

. In February l99l the respondent CIDCO floated a scheme for lease of individual row house plots at Koparkhairane,New Mumbai. The petitioner applied for row house plot on 25.3.l99l vide application no.592 alongwith the registration charges of Rs.20,000. It is the case of the petitioner that no response was received by the petitioner from CIDCO and when he made inquiries with the CIDCO Officers he was told that a letter of allotment was already issued in the name of the petitioner on

29.4.l99l and by letter dated 28.l.l992 respondent had issued a show cause notice for non- payment of instalments due and ultimately the allotment in favour of the petitioner was cancelled and registration charges of Rs.20,000 were forfeited. On 23.9.l994 the petitioner wrote the CIDCO that he had not received any such letter of allotment and show cause notice and requested the CIDCO to send copies of the said letter and proof of service thereof and shown his willingness to pay the amount of instalments. The petitioner thereafter send reminders to which no reply was received. The petitioner then issued a notice through his advocate and thereafter filed the present petition for directing the CIDCO to make allotment of a row house plot in favour of the petitinoer at Koparkhairane, New Mumbai.

2. The learned counsel appearing for the CIDCO submitted that the plot in question being Plot No. 64 Sector l8 Koparkhairane has been already allotted to one D.A.Patil and the said allottee has paid full premium and an agreement of lease was

also entered into and possession of the plot was already handed over to him in l996. He stated that no other plot is available for allotment to the petitioner. The learned counsel further stated that letters were duly issued at the address of the petitioner and it is not possible to produce record of service after a lapse of more than l0 years. The learned counsel for the petitioner suggested that instead of Plot No.64 some other plot may be allotted to him. Mr.Sawant, however, stated that no other plot is available. under the PUDP scheme.

3. In the above circumstances it is not possible to entertain the prayer of the petitioner for allotment of plot under the PUDP scheme. However, having regard to the facts of the case we direct the CIDCO to return the registration charges of Rs.20,000 to the petitioner within a period of 8 weeks from today.

4. Petition is accordingly disposed of.